

AFFIDAVIT IN SUPPORT OF
A CRIMINAL COMPLAINT

1:19mj2009

I, Todd F. Springer, a Special Agent with the Department of Veterans Affairs, Office of Inspector General, Criminal Investigations Division (VA OIG CID), being first duly sworn, hereby depose and state as follows:

INTRODUCTION

1. I have been employed as a Special Agent of the VA OIG CID since July 2010. I have worked as Federal Agent with other Federal agencies since May 2001, including the Internal Revenue Service, Criminal Investigation and the U.S. Postal Service. During my tenure as a Federal law enforcement officer, I have investigated a range of state and federal criminal violations, including those involving white-collar crime, violent crime, drug trafficking and crimes against children. Since 2001, I have received training and have experience in interviewing and interrogation techniques, arrest procedures, search and seizure, search warrant applications, and various other crimes and investigation techniques.

2. I make this Affidavit in support of an application for a criminal complaint and arrest warrant for Lon SWEENEY (SWEENEY), for a violation of Title 18, USC § 111. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other law enforcement officers and witnesses.

3. This Affidavit is intended to show there is sufficient probable cause for the charges in the complaint and does not set forth all of my knowledge about this matter. I have set forth only the facts I believe are necessary to establish probable cause that SWEENEY has committed a violation of Title 18, USC § 111.

STATUTORY AUTHORITY

4. This investigation concerns alleged violations of Title 18, United States Code, § 111, Assaulting, Resisting or Impeding Certain Officers or Employees, which involves whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties.

BACKGROUND OF INVESTIGATION

5. On July 10, 2017, I telephonically interviewed VA Fiduciary Manager Kris Wolf, who stated veteran Lon SWEENEY was upset the VA was reviewing his competency to handle his funds. Wolf stated that during previous conversations between Wolf and SWEENEY, SWEENEY told Wolf "I'm going to kick your ass" and it then escalated to "If I see you, I'm going to f*** you up." These threatening statements took place pursuant to Wolf's official Government duties and occurred at Wolf's residence in Brecksville, OH, while Wolf utilized his VA issued cell phone to conduct the phone calls. Wolf explained that pursuant to his official duties, he is required to visit with SWEENEY about his VA benefits and had been to SWEENEY's residence in Cleveland, OH once on March 21, 2017.

6. On July 10, 2017, I telephonically interviewed SWEENEY at 216-385-1676 (with Wolf conferred in on the phone call) and notified him that threatening Wolf or any other VA employee was not acceptable, and if he threatens Wolf or other VA employees in the future I will present him *for criminal prosecution.* *TC*

7. On July 12, 2017, at 7:38 a.m., SWEENEY left a voicemail message on Wolf's government cell phone, 216-906-8692, complained nobody had updated him regarding his VA claim, and stated if you come to my house or call me with that fiduciary shit and don't take it out

of my file "I'm going to crack your motherf***ing head open." SWEENEY also stated the OIG agent (me) is really Wolf's boss and if he sees the OIG agent (me) he'll "crack his motherf***ing head open." Wolf did not listen to this message until July 17, 2017. Wolf wants to pursue criminal prosecution regarding the threats.

8. On July 18, 2017, RAC McLaren and I attempted to interview SWEENEY at his residence. After determining he was not home, I contacted SWEENEY at 216-385-1676, and we decided to meet for an interview at the intersection of E. 65 St. and Kenyon Ave. Cleveland, OH. After presenting our credentials, SWEENEY stated substantially as follows: SWEENEY confirmed he talked with me on July 10, 2017, and during the call I told him to not threaten VA employees. SWEENEY also confirmed on July 12, 2017, he became really upset because he thought I was going meet him after his court appearance in Cleveland Municipal Court. Since I did not show up SWEENEY became really upset so he left a voicemail stating he was "going to crack your head and his," referring to me and Wolf. SWEENEY knew it was wrong to state he's going to crack another person's skull open and will not do it again. SWEENEY understands he's going to be presented for criminal prosecution for making the threats. SWEENEY then went on to make various unverifiable statements regarding his past military service, CIA service, familial relations and a 2004 sexual assault at the VA. SWEENEY confirmed he used his cell phone (216-385-1676) and was in Cleveland, OH, when he made the threats on July 12, 2017. On October 12, 2017, SWEENEY was charged in Garfield Heights Municipal Court with one

count of Aggravated Menacing, in violation of Ohio Revised Code, Section 2903.21, and one count of Telephonic Harassment, in violation of Ohio Revised Code, Section 2917.21.

9. On or about February 5, 2018, SWEENEY failed to appear for a pretrial proceeding in Garfield Heights Municipal Court, and an arrest warrant was issued by the court.

10. On or about August 1, 2018, SWEENEY, based on his arrest by another agency, appeared in Garfield Heights Municipal Court and was released on bond.

11. On or about August 20, 2018, SWEENEY failed to appear for a pretrial proceeding in Garfield Heights Municipal Court, and another arrest warrant was issued by the court.

12. On or about January 7, 2019, I notified the Cleveland VA Medical Center (VAMC) Police of the outstanding arrest warrant and SWEENEY's appointment at the VAMC on January 7, 2018. After the VA Police verified the appointment and confirmed the arrest warrant with the Brecksville Police Department, the VA Police made the decision to detain SWEENEY after his medical appointment. The VA Police requested my assistance with the detention of SWEENEY at the Cleveland VA Medical Center.

13. On January 7, 2019, at approximately 1415, Sweeney was observed by VA Police Captain Justin Ricker and me at the Cleveland VAMC going to his medical appointment with VA staff. At approximately 1435, Captain Ricker notified the VA medical intern assigned to SWEENEY's care of the outstanding warrant, and the intern retrieved her attending physician, Dr. Simran Singh. After discussing the outstanding warrant with Dr. Singh, they reviewed his medical file and medications, and then signed a Fitness for Incarceration - Medical Clearance.

14. On January 7, 2019, at approximately 1440, Dr. Singh and the intern went into room 1A-124 with SWEENEY, and at approximately 1447 SWEENEY exited the room.

Captain Ricker approached SWEENEY with SA Springer and identified ourselves as law enforcement. SA Springer told SWEENEY he still needs to take care of his outstanding warrant from the Garfield Heights Municipal court. Captain Ricker told SWEENEY "you're under arrest" for an outstanding warrant and to place his hands behind his back. SWEENEY stated I'm not going with you guys, and SA Springer told SWEENEY to settle down and we can discuss this in a different area. Sweeney refused to comply and began to look for a way to leave the area.

15. VA Police Lieutenant Josh Bauman then approached to assist with the arrest and left no area of retreat. Captain Ricker, Lieutenant Bauman and SA Springer attempted to control SWEENEY by placing him in the escort position, with Springer to SWEENEY's left side and Captain Ricker on his right side. SWEENEY became very tense, then began forcefully shifting his weight to the left and right. His forceful resistance caused us to lose control and SWEENEY then began swinging his arms around, causing us to lose control, specifically swinging around his cane in his right hand. Lieutenant Bauman and SA Springer then pinned SWEENEY against the adjacent hallway wall, and Captain Ricker deployed his pepper spray. Captain Ricker administered his pepper spray three times, the first two missed and the third time I impacted SWEENEY's face. Captain Ricker was then able to secure SWEENEY's cane and remove SWEENEY's cane. At this time, Lt. Bauman and SA Springer still had SWEENEY in a hold, now pinned against the wall near Room 1A-125. Captain Ricker applied two short bursts of pepper spray that impacted SWEENEY's facial area, one hitting the left side of his head and the other near his eyes, further disorienting Sweeney.

16. SWEENEY was then placed on the ground. Captain Ricker secured his left arm, Lt. Bauman secured his legs and SA Springer secured SWEENEY's right arm. After

SWEENEY was secured, SA Springer placed his handcuffs on SWEENEY's right wrist, and then to not cause any injuries to SWEENEY, SA Springer used Lt. Bauman's handcuffs to "double cuff" SWEENEY's left wrist.

17. During the incident, SWEENEY was told multiple times to stop resisting and at approximately 1448 I called for backup. After SWEENEY was secured in handcuffs, Corporal Todd Vogler, Sergeant Larry Kozelka, Officer Martin Priddy, Officer Gerald Steve and Chief Aaron Yoder arrived on scene.

18. SWEENEY complained of chest pains and was immediately observed by a VA physician. Corporal Vogler then transported SWEENEY to the VAMC Emergency Room. SA Springer flushed his eyes and washed his hands/arms as he was struck by one or two bursts of my pepper spray. In addition, during the incident, SA Springer was hit in the right shoulder/bicep area, but did not sustain any injury. SA Springer had burning on his face, eyes, left arm and right arm. Lt. Bauman had burning from pepper spray on both of his hands. Pictures were taken of the redness incurred from the pepper spray. *er DFS*

19. The Brecksville Police, who had arrived at the Cleveland VAMC, departed at approximately 1530 and stated they would return when SWEENEY was released from the hospital.

CONCLUSION

20. Based on the aforementioned factual information, your Affiant respectfully submits there is probable cause to believe that SWEENEY, date of birth 02/27/1965, committed

the offense charged in the complaint, Title 18, United States Code, § 111, Assaulting, Resisting or Impeding Certain Officers or Employees.

21. Your Affiant respectfully requests the complaint be authorized based on this Affidavit and the issuance of a warrant for the arrest of SWEENEY.

Respectfully submitted,



Todd F. Springer
Special Agent
Department of Veterans Affairs, OIG CID

Sworn to in my presence on the 8th of January, 2019.



David A. Ruiz
United States Magistrate Judge